IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

WP(C).No. 4122 of 2007(Y)

OS.696/2001 of PRINCIPAL SUB COURT,ERNAKULAM
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PETITIONER: JUDGMENT DEBTRO NO.1

THIMMAPPA M.P., S/O.PADMAYYA,
SURANJANA, OLD THEVARA ROAD, 35/2320,
PERUMANNOOR KARA, ERNAKULAM.

BY ADV. SRI.AYPE JOSEPH

RESPONDENTS: DECREE HOLDER

M/S.KURILAND (P) LTD., UNITY BUILDING,
MANNADIAR LANE, THRISSUR-1, REPRESANTED BY ITS
MANAGING DIRECTOR.

BY ADV. SRI.M.P.RAMNATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 4/4 /2007 THE COURT ON 04/04/2007 DELIVERED THE FOLLOWING:

APPENDIXA

Ext.P1:- Photo copy of the objection dated 12.12.2006.

Ext.P2:- Photo copy of the petition E.A.No.129/07 in E.P.169/06 in O.S.696/01 of Prl.Sub Court, Ernakulam.

/true copy/

P.S. To Judge

K.P.BALACHANDRAN, J.

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W.P.(C)NO.4122 OF 2007

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Dated this the 27th day of February 2007

ORDER

Petitioner has produced copy of decree as ordered. It is seen that no charge is provided for as per the decree on the scheduled properties. Hence the option is for the decree holder as to whether he is to proceed with personal execution or in any other mode. The grievance of the petitioner is that on Ext.P2 petition filed by him seeking for recalling the warrant no orders have been passed by the court below. The prayer was so advanced on the ground that the decree holder is entitled to proceed against the petitioner by way of personal execution only after exhausting the remedies against the mortgaged property. Such an event does not exist in the instant case as the decree is not a charged decree. However, counsel for petitioner submits that an amount of Rs.50,000/- can be deposited positively in one week. Deposit Rs.50,000/- in court below towards the decree debt as offered and report.

Post for admission hearing on 7.3.2007.

K.P.BALACHANDRAN, JUDGE

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